

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF WESTLAND AVENUE ASSOCIATES FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER. ED.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP ORGANIZED PURSUANT TO M.G.L., C. 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A

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A. The Hearing. A public hearing was held at 2:00 p.m. on September 18, 1980 in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application dated August 27, 1980, (hereinafter called the "Application"), filed by Westland Avenue Associates for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on September 8, 1980, and September 15, 1980 in the Boston Herald American, a daily newspaper of general circulation published in Boston and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present at the hearing.



B. The Project. The proposed development area is located on seven parcels of property in the Fenway neighborhood of Boston. A full metes and bounds description can be found in the Application.

The Applicant presently owns three of the seven parcels within the Project Area, #64, 66 and 68, and has obtained Purchase and Sale Agreements with closing deadlines of September 30, 1980 on the remaining four parcels. The following table summarizes the status of the seven parcels:

| <u>Parcel</u> | <u>Applicant Owns?</u> | <u>Date (to be)<br/>Acquired</u> | <u>Price</u> | <u>(To be) Acquired<br/>From</u>          |
|---------------|------------------------|----------------------------------|--------------|-------------------------------------------|
| #64           | Yes                    |                                  |              |                                           |
| #66           | Yes                    |                                  |              |                                           |
| #68           | Yes                    |                                  |              |                                           |
| #72-74        | No                     | 9/30/80                          | \$104,000    | Commonwealth<br>Acceptance<br>Corporation |
| #76-78        |                        |                                  |              |                                           |
| #65-67        | No                     | 9/30/80                          | \$136,000    | David Kaplan                              |
| #83           | No                     | 9/30/80                          | \$ 63,500    | Jo Francis Cheek                          |

The Project for which the Authority's approval is sought consists of the purchase of the Project Area by the 121A Corporation for the purpose of rehabilitating the properties. The Project, after completion, will consist of 4 studio units, 28 one-bedroom units, 49 two-bedroom units, 13 three-bedroom units, and 3 four-bedroom units, for a total of 97 units. Of these, one unit will be provided as part of the compensation of the Resident Superintendent. Appurtenant facilities will include community space, laundry rooms in each of the four "building clusters" into which the project is physically divided, and a common-space atrium in buildings #65-67. The latter double



building will be constructed so as to incorporate an architecturally based passive solar heating and cooling system. Attached to this Application are the following Appendices which display in detail the plans for the Project:

Appendix 2: Site Plan

Appendix 3: Working Drawings, including floor plans and elevations

The apartments in the Project will be occupied by tenants at three general income levels. HUD approval for 30 Section 8 units has been obtained, and the Applicant expects these subsidies to be in place in time for occupancy. All tenants of these 30 units will be low-income households eligible for rental subsidies provided by HUD pursuant to Section 8 of the U.S. Housing Act of 1937, as amended.

Of the 66 rent-producing non-Section 8 units, up to 40 will have their collected rents reduced to moderate-income levels through the operation of a "rent moderation pool", an annual stream capitalized by an Urban Development Action Grant and a contribution of Applicant's syndication proceeds, and generating cash flow in excess of the Project's break-even requirements. Tenant eligibility for any such "moderated" units will be governed by the Urban Development Action Grant contract between the City and HUD, and by related agreements involving the Applicant.

The remaining units will command full market rents.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the



hearing, and arguments and statements made at the hearing.

D. Project Area. The Project as defined in the Application constitutes a "Project" within the meaning of Section 1 of Chapter 121A of the General Laws, providing, as it does, for the acquisition, rehabilitation and construction in a substandard and decadent area of decent, safe, and sanitary housing.

The project Area is part of the Fenway Urban Renewal Area, which has been declared under Chapter 121B of the General Laws to be a blighted open, decadent or substandard area.

The Project Area is decadent and substandard, as those terms are defined in Section 1 of Chapter 121A, because all of the buildings are out of repair, physically deteriorated and dilapidated and unfit for human habitation. Therefore the Project area is detrimental to the safety, health, morals, welfare and sound growth of the community.

The Site would not be developed without the real estate taxes being limited to a percentage of the project's estimated gross annual income, evidenced by the requirement of the mortgage lender attached to the Application. Percentage levels as a basis for taxation can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A.

The seven parcels and their ten building addresses constitute a major physical blight on the East Fens neighborhood. They also stand as a symbol of the extreme physical and social distress experienced by this community in the 1970's. Nothing could more tangibly contribute to the momentum of neighborhood revitalization in the Fenway than



the conversion of these vacant and fire-damaged shells into attractive, productive housing.

For these reasons it is found that the Project Area is a decadent and substandard area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private enterprise.

The Project will provide substantial financial return to the City of Boston. The amounts to be paid in lieu of real estate taxes by the Applicants are set forth in the Application. There shall be paid to the City of Boston a percentage payment in lieu of real estate taxes, in each of the forty (40) calendar years after approval of the project.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable.

The estimated cost of the Project will be approximately \$6,909,295. The major source of funding will be a permanent mortgage purchased by the Government National Mortgage Association (GNMA) for approximately \$6,218,365, for 40 years at 7.5%. The GNMA funds for this mortgage are being held in reserve specifically for this Project by HUD, and these funds will be available for a start of construction on or before September 30, 1980.

In order to obtain a GNMA mortgage, the Project must first obtain Section 221(d)(4) Mortgage Insurance. A determination of feasibility for this insurance has been obtained, and application for "Firm Commitment", the final approval stage, has been filed and is now in



process at the Boston Area Office of HUD/FHA. (The Feasibility Letter and the signature page of the Firm Commitment Application are attached in Appendix 5 to the Application).

The following are all the persons, natural or corporate, who, prior to the completion of the Project, have or will have, directly or indirectly, any ownership interest in the Project (subject as described in the Application of the admission of investor limited partners):

|                                                                        |       |
|------------------------------------------------------------------------|-------|
| George Macomber, Managing General Partner                              | 45.9% |
| Byron Gilchrest, Managing General Partner                              | 5.1%  |
| Michael J. Harrington, General Partner                                 | 13.0% |
| Frank T. Keefe, General Partner                                        | 13.0% |
| Kurt E. Schork, General Partner                                        | 13.0% |
| Fenway Community Development Corporation<br>Sponsoring Limited Partner | 10.0% |

The principal equity investment in the Project will consist of the waiver by the General Partners of their Developer's Fee (BSPRA) of approximately \$571,709. In addition, the Applicant, will fund development cost over-runs and the 15% contribution to rent moderation discussed above. The Applicant, however, reserves the right to admit additional limited partners all as set forth in the Application. The terms of sale of the limited partnership interests will require that all purchasers comply with the pertinent sections of Chapter 121A regulations, the Application and the executed Regulatory Agreement. The partnership agreement expressly provides that partners may own an interest in firms which do business with the partnership.



As indicated above, Applicant has received approval for 30 Section 8 units. Under this subsidy program, HUD pays the amount by which market rents exceed 25% of tenant income. While the 30 Section 8 units are not yet committed and in place, HUD continues to assure Applicant that this commitment will be made by the time of initial occupancy. The Section 8's are not essential to the economic feasibility of the Project.

This Project has also received an Urban Development Action Grant (UDAG) of \$2,000,000 to be passed from HUD to the City to the Authority to the Applicant.

Approximately \$225,000 of this UDAG will be used to help the Applicant meet cash requirements at closing. The remainder (approximately \$1,775,000) will be invested in a government secured holding, returning approximately 12% per annum for 40 years. Income from this investment will serve to allow the collected rents of the "moderated" units to be reduced below full-marked levels.

The Applicant has further agreed to contribute 15% of net syndication proceeds (less construction cost over-runs, if any) to augment the captial value of the rent moderation investment fund described above.

Finally, HUD has approved a Cycle V Solar Energy Demonstration Grant of \$50,000 to defray partially the construction cost premiums associated with the passive solar system in buildings #65-67.

The Applicant shall be entitled at any time and from time to time to amend the limited partnership agreement and to admit limited partners to invest in the Project, but the admission of general partners



shall be with the express written approval of the Authority only.

Experience with similar financing and organization methods persuades the Authority that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston as the Project Area comes within a classification in the Master Plan which permits buildings and uses of the kind proposed by the Applicants.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City of Boston or to the public safety and convenience and is not inconsistent with the most suitable development of the Project Area neighborhood or of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The Plans of the structure to be rehabilitated within the Project Area have been reviewed by the Design Review Staff of the Authority. The Authority finds that this Project will enhance the general appearance of the area and will furnish attractive and necessary landscaping and provide much needed handicapped and elderly housing in the Fenway neighborhood. The Project will have a positive economic impact on the neighborhood surrounding the Project Area and on the City of Boston. During construction of the Project, the Project general contractor will be required, to the best of its ability, to grant preference in hiring to Boston residents.

Further, all the buildings are vacant and therefore no relocation plan is necessary.

Unless prevented or delayed by circumstances not reasonably within the control of the Applicant, construction will commence on or before September 30, 1980. Receipt of HUD/FHA Firm Commitment to



Section 221(d)(4) Mortgage Insurance, reservation of GNMA permanent mortgage purchase funds, and closing of a construction loan will all have occurred before that date.

The Applicant anticipates that the Project will be substantially completed within fifteen (15) months.

H. Environmental Considerations. Pursuant to the provisions of regulations implementing the Massachusetts Environmental Policy Act, 301 CMR 10.32 (3) (h), the Project has been categorically excluded from the filing of any environmental report.

In order to avoid or minimize any damage to the environment, the Authority hereby requires that the applicant comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Noise and Regulations for the Control of Atmospheric Pollution during all phases of construction activity. Furthermore, if the rehabilitation involves any abrasive blasting of interior or exterior surfaces, the contractor must submit an application for an Abrasive Blasting Permit to the City of Boston Air Pollution Control Commission prior to initiation of such activity.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set in the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.



In addition to the minimum standards forth in the Application, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate; (2) submit to the Authority for its review and approval all plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate, and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require the grant of a permit for the erection, amintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as church.

The Project does not involve the construction of units which constitute a single building under the State Building Code and zoning Laws, G.L. c.138.

J. Zoning Code Deviaitions. Appendix 10 to the Application lists the zoning code deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority finds that the deviations attached hereto and incorporated by reference as Exhibit A are necessary for the carrying out of the total project and are therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations respectively. Such deviations include floor area ratio



and boarding house use to apartment use in an H-3 District.

K. Duration of Period of Tax Exemption. The Applicant requests and extension of twenty five (25) years to the base term of fifteen (15) calendar years for the Project's period of tax exemption pursuant to application provisions of Chapter 121A. The proposed Project is designed for housing persons of low and moderate income, which housing shall be subsidized under federal programs to assist the construction and rehabilitation of low and moderate income housing, a use specifically stated in Section 10 of Chapter 121A as qualified for such extension, therefore the Authority hereby grants an extension of twenty five (25) years to the base term of fifteen (15) years.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions as set forth above.



# EXHIBIT A

## ZONING DEVIATIONS

The Authority hereby grants permission to deviate from certain provisions of the Boston Zoning Code as follows:

### Deviations requested for 83 Westland Avenue:

This building is an H-3 District. The proposed use will change the property from a boarding house with an occupancy of 45 persons to an apartment with 5 dwelling units, an allowed use.

The Applicant requests permission to deviate from the required usable open space per dwelling unit of 100 s.f., 68 s.f. will be provided.

### Deviations requested for 65-67 Westland Avenue:

This building is in an H-3 District. The proposed use will change the property from a boarding house with an occupancy of 75 persons to an apartment with 18 dwelling units.

The Applicant requests permission to deviate from the required open space per dwelling unit of 100 s.f.; 32 s.f. will be provided.

### Deviations requested for 72-78 Westland Avenue:

This building is in H-3 District. The proposed use will change the property from a boarding house with an occupancy of 146 persons to an apartment with 46 dwelling units, an allowed use.

The Applicant requests permission to deviate from the maximum floor area ratio of 3.0; 4.58 will be provided; from



the required usable open space per unit of 100 s.f. per dwelling unit to 32; and from the required rear parapet setback of 14.8 ft. to 5 ft.

Deviations requested for 64-68 Westland Avenue:

This building is in an H-3 District. The proposed use will change the property from a boarding house with an occupancy, of 98 persons to an apartment with 30 dwelling units, an allowed use.

The Applicant requests permission to deviate from the required floor area ratio of 3.0 to 4.35; from the required usable open space per unit of 100 s.f. per dwelling unit to 36; and from the required rear parapet setback of 18.5 ft. to 5 ft.

No deviations will be required for off-street parking. The requirements for the apartment are the same or less than the requirements for the pre-code lodging house use.



## MEMORANDUM

September 25, 1980

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: CHAPTER 121A APPLICATION OF WESTLAND AVENUE ASSOCIATES

On September 18, 1980, the Authority conducted a public hearing to consider the above-captioned 121A Application.

The Project consists of the acquisition, rehabilitation, operation and maintenance of seven parcels constituting the Project Area, into 97 units of housing for low income, moderate and market rate tenants in the Fenway Section of Boston.

Authority staff has examined the Application and found that it contained sufficient evidence in support of the Project to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision on the Application of Westland Avenue Associates for the Authorization and Approval of a Project under Massachusetts General Laws (Ter. Ed.) Chapter 121A, as Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and Carried Out by a Limited Partnership Organized Pursuant to M.G.L. c.109 and Approval to Act as an Urban Redevelopment Limited Partnership under said Chapter 121A" be and hereby is approved and adopted.



